

REMARKS

Claims 19-39 are pending. In order to advance prosecution, Applicants amend independent claims 19, 38, and 39 to recite that “at least one of the bristle cluster is not surrounded by a depression.” Support for this amendment can be found throughout the specification and figures, and in dependent claim 25. Dependent claims 25 and 34 have been amended for consistency with independent claim 19. Applicants submit that claims 19-39, as amended, are allowable over the prior art of record.

Applicants thank Examiner Spisich for the courtesies extended to the undersigned during the telephone interview of November 16, 2009. During that interview, the objection under 37 CFR 1.83(a) was discussed. The Examiner indicated that a new drawing should be added to show the features of claims 31-36, with care being given to avoid adding new matter. The Examiner indicated that a simple drawing, showing just the features recited in the claims, would not add new matter. Applicant also thanks Examiner Spisich for input regarding new Figure 6 during the telephone interview of January 13, 2010. Applicants have added new Figure 6 to show the features of claims 31-36 and have amended the specification to refer to this new figure. No new matter has been added. Accordingly, Applicants request reconsideration.

Claims 19, 20, and 37 were rejected under 35 U.S.C. § 102(b) as anticipated by Weihrauch, U.S. Patent No. 4,988,146 (“Weihrauch”). Claims 19-21 and 37 are also rejected under 35 U.S.C. § 102(b) as anticipated by Chen et al., U.S. Patent No. 5,687,446 (“Chen”). Claim 38 stands rejected under 35 U.S.C. § 103(a) as obvious over WO 01/89344¹ (“WO ‘344”) in view of Chen. Claims 19-24 and 39 further stand rejected as being obvious over Fassler et al., U.S. Patent No. 4,635,313 (“Fassler”) in view of Chen. Claims 19-21, 31-33 and 36 are also rejected under 35 U.S.C. § 103(a) as being obvious over Carlucci et al., U.S. Patent No. 6,735,804 (“Carlucci”) in view of Chen. The claims, as amended, are submitted as being patentable over the prior art of record at least because none of the prior art of record discloses or

¹ Applicants believe that the recitation in the Office Action of “WO 01/98344” is a typographical error with the “8” and the “9” transposed. WO 01/98344 relates to proteins and is not of record, while WO 01/89344 is of record in the instant case.

suggests “a depression disposed in the surface and surrounding at least one bristle cluster” where there is also at least one bristle cluster not surrounded by a depression. One having ordinary skill in the art at the time of invention would not have found it obvious to create a toothbrush having “a depression disposed in the surface and surrounding at least one bristle cluster” where there is also “at least one bristle cluster not surrounded by a depression.” Accordingly, Applicants request the allowance of claims 19-39, as amended.

Applicants note that the Office Action indicated that claim 25 would be allowable if written in independent form. Although Applicants did not amend claim 19 to include all of the limitations of claim 25, Applicants believe that the claims, as amended, are allowable nonetheless for the reasons stated above.

Accordingly, each of the pending claims 19-39 (as amended) are in form for allowance. Although Applicants have amended certain claims to advance prosecution, Applicants believe that, before amendment, the claims contained patentable subject matter. As such, Applicants reserve the right to pursue claims of the same or similar scope in the future.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

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Respectfully submitted,

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